

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of
Protecting Against National Security Threats to the
Communications Supply Chain Through FCC
Programs
WC Docket No. 18-89

ORDER

Adopted: November 28, 2023

Released: November 28, 2023

By the Chief, Wireline Competition Bureau:

I. INTRODUCTION

1. In this Order, the Wireline Competition Bureau (Bureau) addresses the petitions filed by Triangle Telephone Cooperative Association Inc. (Triangle Telephone) and Triangle Communication System, Inc. (Triangle Communication) (collectively, Petitioners) requesting an extension of their respective removal, replacement, and disposal terms under the Secure and Trusted Communications Networks Reimbursement Program (Reimbursement Program).1 For the reasons stated below, the Bureau grants Petitioners' extension requests pursuant to Commission rule 1.50004(h)(2).2 The Bureau thus extends the removal, replacement, and disposal term for Triangle Telephone from November 29, 2023 to May 29, 2024 and Triangle Communication from January 13, 2024 to July 13, 2024.

II. BACKGROUND

2. As directed by the Secure and Trusted Communications Networks Act of 2019, as amended (Secure Networks Act), the Commission established the Reimbursement Program to reimburse providers of advanced communications services with ten million or fewer customers for reasonable costs incurred in the removal, replacement, and disposal of covered communications equipment or services from their networks that pose a national security risk, i.e., communications equipment or services produced or provided by Huawei Technologies Company (Huawei) or ZTE Corporation (ZTE), that were obtained by providers on or before June 30, 2020.3

1 See Request of Triangle Telephone for Extension of Time, WC Docket No. 18-89 (filed Oct. 18, 2023), https://www.fcc.gov/ecfs/search/search-filings/filing/10182721122050 (Triangle Telephone Request); Request of Triangle Telephone for Extension of Time, WC Docket No. 18-89 (filed Nov. 10, 2023), https://www.fcc.gov/ecfs/search/search-filings/filing/111082127753 (Triangle Telephone Supplemental Request); Request of Triangle Communication for Extension of Time, WC Docket No. 18-89 (filed Oct. 18, 2023), https://www.fcc.gov/ecfs/search/search-filings/filing/1018845205051 (Triangle Communication Request); Request of Triangle Communication for Extension of Time, WC Docket No. 18-89 (filed Nov. 16, 2023), https://www.fcc.gov/ecfs/search/search-filings/filing/1116296204850 (Triangle Communication Supplemental Request).

2 47 CFR § 1.50004(h)(2) (explaining that "[t]he Wireline Competition Bureau may grant an extension for up to six months after finding that due to no fault of [a] recipient, such recipient is unable to complete the permanent removal, replacement, and disposal by the end of the [removal, replacement, and disposal] term.").

3 Secure and Trusted Communications Networks Act of 2019, Pub. L. No. 116-124, § 4(a)-(c), 134 Stat. 158 (2020) (codified as amended at 47 U.S.C. §§ 1601-1609) (for purposes of the Secure Networks Act, defining "advanced communications services," by reference to 47 U.S.C. § 1302(d)(1), as "high-speed, switched, broadband

3. Consistent with the Secure Networks Act, the Commission's rules require that Reimbursement Program recipients complete the removal, replacement, and disposal of covered communications equipment and services within one year from the initial disbursement of funds to the recipient.⁴ Pursuant to section 4(d)(6)(C) of the Secure Networks Act, the Commission may grant recipients extensions of this term on an individual basis.⁵ The Commission delegated authority to the Bureau to grant or deny individual petitions for an extension.⁶ According to Commission rule 1.50004(h)(2), a recipient may petition the Bureau for an extension of time prior to the expiration of their term, and the Bureau "may grant an extension for up to six months after finding, that due to no fault of such recipient, such recipient is unable to complete the permanent removal, replacement, and disposal by the end of the term."⁷ The Commission noted that extensions will be granted only where a recipient "demonstrates the delay is due to factors beyond its control" and directed the Bureau "to be guided by the Commission's precedent in dealing with similar requests involving wireless facilities under section 1.946 of the Commission's rules,"⁸ which requires licensees of wireless spectrum to meet certain construction and coverage requirements within specified time periods.⁹

4. *The Petitions.* Triangle Telephone filed its Petition and supporting documentation in the Commission's Electronic Comment Filing System (ECFS) on October 18, 2023 and November 10,

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telecommunications capability that enables users to originate and receive high-quality voice, data, graphics, and video telecommunications using any technology"). The Commission adopted rules implementing the Secure Networks Act on December 10, 2020. *Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs*, WC Docket No. 18-89, Second Report and Order, 35 FCC Rcd 14284 (2020) (*2020 Supply Chain Order*). On July 13, 2021, the Commission amended its rules, consistent with amendments to the Secure Networks Act included in the Consolidated Appropriations Act, 2021. *Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs*, WC Docket No. 18-89, Third Report and Order, 36 FCC Rcd 11958, 11959, Appx. A (2021) (*2021 Supply Chain Order*). The Commission later clarified that, for purposes of the Reimbursement Program, covered communications equipment or services is limited to the communications equipment or services produced or provided by Huawei Technologies Company (Huawei) or ZTE Corporation (ZTE) that were obtained by providers on or before June 30, 2020. See *2021 Supply Chain Order*, 36 FCC Rcd at 11965, Appx. A; see also generally *Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs – Huawei Designation*, PS Docket No. 19-351, Order, 35 FCC Rcd 6604 (PSHSB 2020); *Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs – ZTE Designation*, PS Docket No. 19-352, Order, 35 FCC Rcd 6633 (PSHSB 2020).

⁴ *2020 Supply Chain Order*, 35 FCC Rcd at 14331, para. 169 (establishing a one-year timeline for removal, replacement, and disposal).

⁵ See 47 U.S.C. § 1603(d)(6)(C).

⁶ 47 CFR § 1.50004(h)(2).

⁷ *Id.*; see also *2020 Supply Chain Order*, 35 FCC Rcd at 14354-56, paras. 171, 173.

⁸ *2020 Supply Chain Order*, 35 FCC Rcd at 14356, para. 173 and n.501 (citing 47 CFR § 1.946(e) (allowing for an extension of time "if the licensee shows that failure to meet the construction or coverage deadline is due to involuntary loss of site or other causes beyond its control" and establishing that requests will not be granted (1) "for failure to meet a construction or coverage deadline due to delays caused by a failure to obtain financing, to obtain an antenna site, or to order equipment in a timely manner"; (2) "because the licensee undergoes a transfer of control or because the licensee intends to assign the authorization"; or (3) "solely to allow a transferee or assignee to complete facilities that the transferor or assignor failed to construct").

⁹ Section 1.946 is generally enforced when a wireless licensee has applied to build a microwave link. See generally 47 CFR § 1.946. See also 47 CFR § 1.946(a)-(b), (e) (describing requirements related to construction and coverage periods and deadlines). The rule permits the Wireless Telecommunications Bureau (WTB) to extend a licensee's construction or coverage period when the licensee shows that additional time is needed due to "causes beyond its control." See 47 CFR § 1.946(e)(1); see also 47 CFR § 1.946(e)(4). In determining whether to grant such requests, WTB looks to see if the delay is caused by circumstances beyond the licensee's control and whether the licensee has acted diligently.

2023.¹⁰ In its Petition, Triangle Telephone requests an extension of its removal, replacement, and disposal term from November 29, 2023 to May 29, 2024.¹¹ Triangle Communication filed its Petition and supporting documentation in the Commission’s ECFS on October 18, 2023 and November 16, 2023.¹² In its Petition, Triangle Communication requests an extension of its removal, replacement, and disposal term from January 13, 2024 to July 13, 2024.¹³ Petitioners each contend their progress has been delayed due to (1) supply chain issues, including shortcomings in available labor, and (2) weather conditions.¹⁴

5. Petitioners claim that supply chain disruptions, attributable in part to the COVID-19 pandemic, have increased lead times for equipment delivery well beyond what would otherwise be normal.¹⁵ For example, Petitioners note that obtaining “electrical breakers and jumper cabling took many months more than it would have before [the pandemic]” and that it was not able to provide power to its sites without this equipment.¹⁶ Similarly, Petitioners state that the lead time for rectifiers increased “from a few months . . . to almost a year” after they placed their orders and that they could not obtain similar equipment in a more timely manner despite inquiring with other sources.¹⁷ Petitioners note that they waited up to approximately 18 months for generators to be delivered.¹⁸

6. Petitioners explain that these issues have been exacerbated by a lack of available employees and qualified contractors due, in part, to the effects of the pandemic.¹⁹ According to Petitioners, their projects fell behind schedule as employees and contractors could not work, sometimes for a “couple weeks” at a time, due to health and safety precautions.²⁰ Petitioners note that employees and contractors were sometimes unable to make progress when dealing with pandemic effects, particularly as some project tasks require personnel to work “in proximity” of each other.²¹ Petitioners describe experiencing further delays as some of their “employees had to be pulled from the scheduled work and re-do the work of the contractors that were hired to complete the work correctly the first time” but that had failed to do so.²²

7. Petitioners also contend that their progress has been and will continue to be delayed due to weather conditions in Montana, where they operate.²³ As a result of all these claimed issues, Triangle

¹⁰ *Supra* note 1.

¹¹ *See generally* Triangle Telephone Request; Triangle Telephone Supplemental Request.

¹² *Supra* note 1.

¹³ *See generally* Triangle Communication Request; Triangle Communication Supplemental Request.

¹⁴ *See generally* Triangle Telephone Request; Triangle Telephone Supplemental Request; Triangle Communication Request; Triangle Communication Supplemental Request.

¹⁵ Triangle Telephone Supplemental Request at 1; Triangle Communication Supplemental Request at 1.

¹⁶ Triangle Telephone Supplemental Request at 1; Triangle Communication Supplemental Request at 1.

¹⁷ Triangle Telephone Supplemental Request at 1; Triangle Communication Supplemental Request at 1.

¹⁸ Triangle Telephone Supplemental Request at 1; Triangle Communication Supplemental Request at 1. Triangle Communication also explains that the delivery of “CBRS” equipment was delayed by approximately four months due to “manufacturing and development” issues. Triangle Communication Supplemental Request at 1.

¹⁹ Triangle Telephone Supplemental Request at 1; Triangle Communication Supplemental Request at 1.

²⁰ Triangle Telephone Supplemental Request at 1; Triangle Communication Supplemental Request at 1.

²¹ Triangle Telephone Supplemental Request at 1; Triangle Communication Supplemental Request at 1.

²² Triangle Telephone Supplemental Request at 2; Triangle Communication Supplemental Request at 2.

²³ Triangle Telephone Supplemental Request at 2; Triangle Communication Supplemental Request at 2.

Telephone requests a six-month extension of its term, to May 29, 2024, and Triangle Communication requests a six-month extension of its term, to July 13, 2024.²⁴

III. DISCUSSION

8. For the reasons described below, and consistent with our prior findings as to similar extension requests,²⁵ we find that Petitioners have each established that supply chain issues have impacted them so that, “due to no fault of such recipient, such recipient is unable to complete the permanent removal, replacement, and disposal by the end of the term,” as required by Commission rule 1.50004(h)(2).²⁶ We therefore grant each Petitioner’s extension request. To the extent Petitioners raise additional, independent bases in support of their requests, we find it unnecessary to address their merits in this Order.

9. We find that each Petitioner has made a sufficient showing that it has been unable to complete its removal, replacement, and disposal obligations by the end of its current term due to supply chain issues.²⁷ We agree that the delays that Petitioners encountered, including lead times of up to approximately 18 months to obtain key equipment, including electrical breakers, cabling, rectifiers and generators, arose from broader supply chain issues due to no fault of their own.²⁸ We acknowledge Petitioners’ representations that these lead times were well in excess of what they would have been “before COVID” and that, in one case, lead times were increased “from a few months . . . to almost a year” after having placed an equipment order.²⁹ We also agree that these delays were further exacerbated by labor shortages that Petitioners faced as their employees were unable to work due to the pandemic and that these delays were amplified in view of the need for employees to work in proximity to each other to complete required activities.³⁰ Accordingly, we conclude that, due to supply chain issues, each Petitioner was unable to complete removal, replacement, and disposal by the end of its current removal, replacement, and disposal term.³¹

10. We also find that, based on the facts presented, each Petitioner bears no fault for being unable to comply with its removal, replacement, and disposal obligations by the end of its current term. The delays described by Petitioners are rooted in broader supply chain issues over which they have no control. Moreover, we find that Petitioners acted diligently in attempting to mitigate such delays by seeking to procure backordered equipment from other sources.³² We find that Petitioners have each demonstrated that the delays are due to factors beyond their control.³³

²⁴ See Triangle Telephone Request at 1; Triangle Communication Request at 1.

²⁵ *Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs*, WC Docket No. 18-89, Order, DA 23-875 (WCB Sept. 22, 2023) (granting an extension to Stealth Communications Services, LLC); *Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs*, WC Docket No. 18-89, Order, DA 23-938 (WCB Oct. 10, 2023) (granting extensions to WorldCell Solutions, LLC, Mediacom Communications Corporation, Virginia Everywhere, LLC, James Valley Cooperative Telephone Company, and NE Colorado Cellular, Inc. d/b/a Viaero Wireless); *Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs*, WC Docket No. 18-89, Order, DA 23-1016 (WCB Oct. 27, 2023) (granting extensions to Point Broadband Fiber Holding, LLC and SI Wireless, LLC).

²⁶ 47 CFR § 1.50004(h)(2).

²⁷ *Id.*

²⁸ Triangle Telephone Supplemental Request at 1; Triangle Communication Supplemental Request at 1.

²⁹ Triangle Telephone Supplemental Request at 1; Triangle Communication Supplemental Request at 1.

³⁰ Triangle Telephone Supplemental Request at 1; Triangle Communication Supplemental Request at 1.

³¹ 47 CFR § 1.50004(h)(2).

³² Triangle Telephone Supplemental Request at 2; Triangle Communication Supplemental Request at 2.

11. Accordingly, for these reasons, we conclude that each Petitioner has established, based on the ongoing supply chain issues, that “due to no fault of such recipient, such recipient is unable to complete the permanent removal, replacement, and disposal by the end of the term” as required by Commission rule 1.50004(h)(2). We grant each Petitioner’s extension request on this ground.

IV. ORDERING CLAUSES

12. Accordingly, IT IS ORDERED that, pursuant to section 4(i)-(j) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i)-(j), and sections 0.204, 0.291, and 1.50004(h)(2) of the Commission’s rules, 47 CFR §§ 0.204, 0.291, 1.50004(h)(2), the Petitions for extensions of term filed by Triangle Telephone and Triangle Communication are each GRANTED.

13. IT IS FURTHER ORDERED that the removal, replacement, and disposal term for Triangle Telephone under 47 CFR § 1.50004(h)(2) IS EXTENDED to May 29, 2024.

14. IT IS FURTHER ORDERED that the removal, replacement, and disposal term for Triangle Communication under 47 CFR § 1.50004(h)(2) IS EXTENDED to July 13, 2024.

FEDERAL COMMUNICATIONS COMMISSION

Trent B. Harkrader
Chief
Wireline Competition Bureau

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³³ We note that granting each Petitioner its requested extension on the basis of the supply chain issues is consistent with the principles of Commission rule 1.946. 47 CFR § 1.946. For the reasons already described above, we find that each Petitioner has established that it requires additional time to meet its removal, replacement, and disposal obligations due to “causes beyond its control” despite having acted diligently in an attempt to meet its obligations within its originally assigned removal, replacement, and disposal term. *See* 47 CFR § 1.946(e)(1)-(2), (4).